

IN THE HIGH COURT OF DELHI AT NEW DELHI

CrI.M. 1467/04 in CrLW 532/1992

COURT ON ITS OWN MOTION.

Through

versus

STATE

Through

.... Petitioner

**Ms. Aparna Bhat for the
applicant-NGO.**

.... Respondent

**Ms. Mukta Gupta, Adv. For
the State**

CORAM:

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE C.K. MAHAJAN

ORDER

27.02.2004

By this application, the applicant-NGO namely, Prajwala, seeks a direction to an Additional Sessions Judge, Tis Hazari Courts, Delhi to record evidence of some of the witnesses in a case arising out of FIR No's. 144/2002 and 110/2002, registered at P.S. Kamala Market, Delhi under Sections 376/365/368/34 IPC.

The application has been necessitated because the learned Trial Judge has dismissed The application moved by the said NGO for the said purpose. Vide order dated 29 January 2004, the learned judge has declined, the request mainly on the ground that neither the State Government nor his Court have the facility of video conferencing and, therefore, allowing such an application at this juncture would consume a lot of time, with the result that the trial would be delayed.

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Narrating the background facts with regard to the rehabilitation and reintegration of the victims of trafficking, in the application it is pleaded that compelling the said victims, who are to be examined, as prosecution witnesses, to come to Delhi from distant places, where they have now been rehabilitated, would not only cause immense inconvenience to them, it will also be detrimental to their personal lives. However, it is stated that the said victims are willing to have their statements recorded by means of video conferencing from the stations they are presently residing/rehabilitated.

In order to explore the possibility of getting the statements of some of the witnesses, based at Andhra Pradesh, recorded by the said mode, we had requested Ms. Mukta Gupta, learned Standing Counsel for the State to make enquiries from the National Informatics Centre, New Delhi, if they could make available their infrastructure for the said purpose and if so, on what terms. In response thereto an affidavit of Mr. Ajeet Singh, Inspector, P.S. Kamala Market, Delhi has been filed where in the information furnished by the National Informatics centre has been stated. We feel that for the present it may not be possible to avail of the services of National Informatics Centre on their terms.

However, Ms. Aparna Bhatt learned counsel for the applicant NGO, has placed before us a xerox copy of the fax message received by her from the Principal Secretary to the Government of Andhra Pradesh, Women Development Child Welfare and Disabled Welfare Department. In the said communication it has been indicated that the Andhra Pradesh government has arrangements for

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video conferencing at Andhra Pradesh Bhawan, New Delhi and the said facility can be made available for recording the statements of the witnesses. Ms. Mukta Gupta and Ms. Aparna Bhatt have visited Andhra Pradesh . Bhawan to have first hand idea about these facilities in the Andhra Pradesh Bhawan. They seem to be quite satisfied with the arrangements.

In order to elicit the response of the learned Additional Sessions Judge, we had requested him to attend the proceedings today. Mr. R.P.S. Teji is present in Court. He submits that in view of the assurance given by the Andhra Pradesh Government in this regard, there should not be any difficulty in recording the evidence by means of video conferencing.

In the light of the afore-noted scenario and *bearing* in mind the fact that it will definitely be inconvenient for the witnesses, placed in peculiar circumstances, to come to Delhi for the purpose of recording of their statements, we feel that it is a fit case where their evidence could be recorded by video conferencing. Accordingly, we direct that the learned Trial Court shall fix a date for recording the statements of the witnesses, based in Andhra Pradesh. by video conferencing. Needless to add that while recording evidence by the said mode the learned Judge will keep in mind the safeguards, enumerated in the decision of the Supreme Court in State of Maharashtra Vs. Dr. Praful B. Desai (2003) 4 SCC 601.

As already directed by the *Trial* Court, the State of Andhra Pradesh shall produce the witnesses summoned and make them available for the purposes

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of recording their evidence by video conferencing. They will also make all necessary arrangements for recording of the evidence by video conferencing in Andhra Pradesh Bhawan.

The application stands disposed of.

Copies of the order be issued to learned counsel for the parties under the signatures of the Court Master of this Court.

Crl.M. 369/2004

In view of the direction given to Crl.M. 1467/2004, no further orders are called for in the application. The same stands disposed of accordingly.

FEBRUARY 27, 2004

"v"

D.K. JAIN,J

C.K. MAHAJAN,J